

GROUND LEASE FOR FIRE STATION #11 (BUILDING 2520)

BETWEEN

THE CITY OF LINCOLN, NEBRASKA,
A Municipal Corporation

AND

THE AIRPORT AUTHORITY OF
THE CITY OF LINCOLN, NEBRASKA

Effective: June 1, 2017

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**GROUND LEASE FOR FIRE STATION #11
(BUILDING 2520)**

in

LNK ENTERPRISE PARK

This Lease Agreement is executed in duplicate this _____ day of _____, 20____, between the Airport Authority of the City of Lincoln, Nebraska, hereinafter referred to as "Authority," and the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "Lessee."

RECITALS

I

In accordance with Article 5, Chapter 3 of the Statutes of Nebraska, the City Council of the City of Lincoln, Nebraska, by appropriate action in 1959, created an Airport Authority and transferred to the Authority the right to use, occupy, and manage certain real estate owned by or acquired in the name of the City of Lincoln, including the land leased herein, located on Lincoln Airport in an area denominated "LNK Enterprise Park"; and

II

The Authority deems it advantageous to the support, operation and public purpose of the Airport to lease to the Lessee the land described herein; and

III

The Lessee proposes to lease on a net basis from the Authority, as herein provided, the ground area as herein described.

NOW, THEREFORE, it is mutually agreed between the parties as follows:

1. **Leased Premises.** Authority, in consideration of the rents to be paid by Lessee as hereinafter set forth, and of the covenants and agreements hereinafter stipulated to be mutually kept and performed by the parties hereto, does hereby lease unto Lessee the following described premises situated in LNK Enterprise Park, Lincoln, Nebraska, to-wit:

A TRACT OF LAND COMPOSED OF A PORTION OF LOT 6 I.T., LOCATED IN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 10 NORTH, RANGE 6 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AND OUTLINED IN RED ON THE ATTACHED EXHIBIT A.

SAID TRACT CONTAINS A CALCULATED AREA OF 91,749 SQUARE FEET, MORE OR LESS;

together with the improvements and appurtenances thereunto belonging or in any wise appertaining, including the right of ingress and egress thereto and therefrom at all times (the "Leased Premises"). Authority agrees to keep a street open from the Leased Premises to a public street or highway.

Authority further agrees to authorize Lessee, by a separate Consent Agreement, to construct, operate, maintain, repair, and replace a public sanitary sewer in the area as generally shown on Exhibit A and described on Exhibit B. The Consent Agreement shall be provided at no cost to Lessee.

2. **Term.** Lessee shall have and hold the Leased Premises for a term of twenty-five (25) years commencing on June 1, 2017 and ending on May 31, 2042, (the "Basic Term"), unless sooner terminated as hereinafter provided.

3. **Rent.**

(a) Lessee shall pay Authority, as rent for the Leased Premises, the sum of Nine Thousand One Hundred Seventy Four Dollars and Ninety Cents (\$9,174.90) per annum (\$0.10 per sq. ft. x 91,749 sq. ft.) to be paid in

equal monthly installments of Seven Hundred Sixty Four Dollars and Fifty Eight Cents (\$764.58) (the "Basic Monthly Rent") payable in advance on the 1st day of each month during the term of this Lease; provided, that the Basic Monthly Rent shall be \$1.00 for the months commencing June 1, 2017 through and during the pendency of construction of the Fire Station to be constructed on the Leased Premises until receipt by the Lessee of a Certificate of Substantial Completion from the Architect. Commencing on the first day of the month following issuance of a Certificate of Substantial Completion, the full Basic Monthly Rent shall be due and payable as provided herein.

(b) The rent provided in (a) above shall be increased on June 1, 2022 and on the anniversary date of this lease every five (5) years thereafter over the rent for the previous five-year period by a percentage increase equal to the percentage change in the Consumer Price Index- For All Urban Consumers for the U.S. City Average for All Items 1982-84 = 100 over the immediately preceding five-year period, or seven and one-half percent (7½%), whichever is greater. If the Index shall cease to be published, there shall be substituted therefor a Price Index (or combination of indices, with such adjustments as may be required to afford comparability), published by the Bureau of Labor Statistics or its successors government agency, which is intended to be representative of substantially similar changes in the cost of living. The substituted Index shall likewise be used, if necessary, for

purposes of determining rental rates under the options to renew as provided in Section 4.

4. Options to Renew; Subsequent Occupancy Subject to Negotiation.

(a) First Option. In the event Lessee has complied with all of the terms and provisions of this Lease, then and in that event Authority further gives and grants to Lessee the right, privilege and option of renewing this Lease at the expiration of the Basic Term for an additional five (5) years beginning on the 1st day of June, 2042, and ending on the 31st day of May, 2047, (the “First Option Period”), upon the same conditions, guarantees and covenants herein set forth, excluding rental rate.

Rental rate for the First Option Period shall be a seven and one-half percent (7½%) increase over the then current rental rate established under Section 3 or an increase over the then current rental rate established under Section 3 in an amount equal to the percentage change in the Consumer Price Index – For All Urban Consumers for the U.S. City Average for All Items 1982-84 = 100 over the immediately preceding five-year period, whichever is greater. Lessee shall notify Authority of its intent to exercise or reject the First Option no less than 90 calendar days prior to the start date of the option; otherwise such Option shall be deemed void and of no further force and effect.

(b) Second Option. In the event Lessee has complied with all of the terms and provisions of this Lease and the First Option has been exercised, then and in that event Authority further gives and grants to Lessee the right, privilege and option of renewing this Lease for an additional five (5) years beginning on the 1st day of June, 2047, and ending on the 31st day of May, 2052, (the “Second Option Period”), upon the same conditions, guarantees and covenants herein set forth, excluding rental rate.

Rental rate for the Second Option Period shall be a seven and one-half percent (7½%) increase over the rental rate for the First Option Period or an increase over the rental rate for the First Option Period in an amount equal to the percentage change in the Consumer Price Index – For All Urban Consumers for the U.S. City Average for All Items 1982-84 = 100 from the commencement of the First Option Period, whichever is greater. Lessee shall notify Authority of its intent to exercise or reject the Second Option no less than 90 calendar days prior to the start date of the option; otherwise such Option shall be deemed void and of no further force and effect.

(c) Third Option. In the event Lessee has complied with all of the terms and provisions of this Lease and the Second Option has been exercised, then and in that event Authority further gives and grants to Lessee the right, privilege and option of renewing this Lease for an additional five (5) years beginning on the 1st day of June, 2052, and ending on the 31st day of May, 2057, (the “Third Option Period”), upon the same conditions, guarantees and covenants herein set forth, excluding rental rate.

Rental rate for the Third Option Period shall be a seven and one-half percent (7½%) increase over the base rental rate for the Second Option Period or an increase over the base rental rate for the Second Option Period in an amount equal to the percentage change in the Consumer Price Index – For All Urban Consumers for the U.S. City Average for All Items 1982-84 = 100 from the commencement of the Second Option Period, whichever is greater. Lessee shall notify Authority of its intent to exercise or reject the Third Option no less than 90 calendar days prior to the start date of the option; otherwise such Option shall be deemed void and of no further force and effect.

(d) Fourth Option. In the event Lessee has complied with all of the terms and provisions of this Lease and the Third Option has been exercised, then and in that event Authority further gives and grants to Lessee the right, privilege and option of renewing this Lease for an additional five (5) years beginning on the 1st day of June, 2057, and ending on the 31st day of May, 2062, (the “Fourth Option Period”), upon the same conditions, guarantees and covenants herein set forth, excluding rental rate.

Rental rate for the Fourth Option Period shall be a seven and one-half percent (7½%) increase over the base rental rate for the Third Option Period or an increase over the base rental rate for the Third Option Period in an amount equal to the percentage change in the Consumer Price Index – For All Urban Consumers for the U.S. City Average for All Items 1982-84 = 100 from the commencement of the Third Option Period, whichever is greater. Lessee shall notify Authority of its intent to exercise or reject the Fourth Option no less than 90 calendar days prior to the start date of the option; otherwise such Option shall be deemed void and of no further force and effect.

(e) Fifth Option. In the event Lessee has complied with all of the terms and provisions of this Lease and the Fourth Option has been exercised, then and in that event Authority further gives and grants to Lessee the right, privilege and option of renewing this Lease for an additional five (5) years beginning on the 1st day of June, 2062, and ending on the 31st day of May, 2067, (the “Fifth Option Period”), upon the same conditions, guarantees and covenants herein set forth, excluding rental rate.

Rental rate for the Fifth Option Period shall be a seven and one-half percent (7½%) increase over the base rental rate for the Fourth Option Period or an increase over the base rental rate for the Fourth Option Period in an amount equal to the percentage

change in the Consumer Price Index – For All Urban Consumers for the U.S. City Average for All Items 1982-84 = 100 from the commencement of the Fourth Option Period, whichever is greater. Lessee shall notify Authority of its intent to exercise or reject the Fifth Option no less than 90 calendar days prior to the start date of the option; otherwise such Option shall be deemed void and of no further force and effect.

If, at the end of the Fifth Option Period, Lessee desires to continue its use and possession of the Leased Premises and the improvements thereon, Authority and Lessee agree to negotiate in good faith a new lease of the premises with rental based upon the then current fair market value of the land and improvements located thereon.

5. **Payment of Rent; Charge on Unpaid Items.** All rental payments due under this Lease shall be paid, without notice to the Lessee, to the Airport Authority of the City of Lincoln, Nebraska, at the address described in Section 36, or to such other address as the Authority may direct in writing. An additional charge of fifteen percent (15%) per annum on unpaid items shall be paid by Lessee from the first day of the month due, of any amounts due under this Lease which shall remain unpaid for more than ten (10) calendar days after due date. Such charge shall not accrue upon any item about which there exists a bona fide dispute. In no event shall Lessee be charged an interest rate that is higher than allowed by law.

6. **Project Description; Construction.** Lessee is hereby authorized to construct a fire station, to be designated as Building 2520, on the Leased Premises as shown on Exhibit "A". It is understood and agreed that Lessee shall be responsible for design and construction of the fire station, including any cost required for the relocation of any utilities, fencing, and other improvements, at Lessee's sole cost and expense.

7. **Plans and Specifications; Approval; Permits.** Lessee shall submit plans and specifications prepared by the Architect, as hereinafter defined, for the construction of Building No. 2520 and improvements to Authority for Authority's approval prior to initiation of construction. After Authority's written approval of the plans, Lessee shall submit said plans to the Department of Building and Safety of the City of Lincoln for their review and approval, and shall obtain all required permits. All construction of Building No. 2520 shall be conducted in such a manner as to not impair, interfere, or interrupt any utility or other services on Airport Authority property and in such a manner as to not disrupt the movement and flow of vehicles or aircraft and shall comply with all municipal, state, and federal codes and regulations. Any material changes to the work must be first approved by the Executive Director of the Authority.

Upon completion of the project, Lessee shall submit to the Authority one printed, paper and electronic, AutoCAD compatible copy of as-built drawings accurately reflecting all final conditions, including any material changes to the work of Building 2520.

8. Construction; Supervision. Lessee shall insure that all plans and specifications as prepared by, and construction is supervised by, an architect retained by Lessee authorized to practice in the state of Nebraska (the "Architect"), or person working under the direction of such Architect, and will insure that all work is completed in a good and workmanlike manner. The Authority shall at all times have the right to inspect the work or cause its agents or employees to inspect the work.

Lessee shall include Authority as an invitee to any and all progress meetings. Lessee shall provide to Authority copies of any and all project testing reports including soil borings and compaction tests, and concrete mix designs and tests.

9. Responsibility for Off-Site Improvements. Lessee shall pay for any and all off-site improvements directly required by the construction of Building No. 2520 on the Leased Premises.

10. Improvement; Property of Lessee. Upon completion of construction, and final acceptance by the architect, the Fire Station designated as Building No. 2520 in LNK Enterprise Park shall be and remain the property of the Lessee. Lessee shall keep, maintain, and repair said Fire Station and improvements at its sole cost and expense during the term of this lease.

11. Construction Insurance.

(a) All Contractors hired by Lessee for the construction of the Building 2520 shall, at their own expense, procure and maintain the types and amounts of insurance set forth below:

- i. Commercial General Liability Insurance in an amount of not less than Five Million Dollars (\$5,000,000.00) combined single limit.
 - ii. Comprehensive Automobile Liability in an amount of not less than Five Million Dollars (\$5,000,000.00) combined single limit.
 - iii. Builders Risk Insurance insuring the proposed improvements in an amount equal to the contract price.
 - iv. Workers Compensation insurance in compliance with Nebraska law.
- (b) The insurance policy or policies required under (i), (ii), and (iii) above must name the Authority and Lessee as additional insureds.
- (c) All insurance policies shall provide that they will not be altered or canceled without thirty (30) calendar days advance written notice to Authority and Lessee.
- (d) The Contractor shall obtain all insurance required from an insurance company or companies authorized to do business in the State of Nebraska with an AM Best Rating of no less than A:V11. The insurance company must be acceptable to Authority; approval may be denied a company based on its Best rating or other indication of financial inadequacy.
- (e) Lessee shall obtain from the Contractor, prior to commencement of any construction activity, a certificate or certificates of insurance and shall provide copies of all certificates to Authority. All such certificates shall be completed to show compliance with Contractor's insurance requirements hereunder, including the notice provisions. Authority may also require Lessee to obtain from the Contractor copies of the declarations page, insurance policy, and endorsements thereto of all policies for which coverage is being extended for this project.

- (f) If the Contractor shall at any time fail to insure or keep insured as aforesaid, or if any insurance policies required hereunder cannot be obtained for any reason, Authority may require Lessee to cease any and all operations until coverage is obtained.

12. **Performance and Labor and Material Payment Bond.** The Lessee shall require its Contractor to post a performance bond and a labor and material payment bond, to be filed in the offices of the Lessee, with a copy provided to Authority, in a sum not less than the full contract amount from a corporate surety company authorized to do business in the state of Nebraska. The performance bond shall be conditioned upon Contractor's proper performance of all the terms and conditions of the construction contract and performance of all guaranty work and the material and payment bond shall be conditioned upon the payment of all laborers and mechanics for labor that is performed and for the payment for material and equipment rental which is actually used or rented in erecting, furnishing, or repairing of the improvements contemplated under this Lease.

13. **E-Verify.** All contractors performing work hereunder shall be required to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

14. **Equal Opportunity.** In the performance of this Lease, Lessee and its contractors or subcontractors shall not discriminate against any employee, or applicant for employment, on the basis of race, color, religion, sex, disability, marital status, national origin or age.

15. **Real Estate Taxes; Personal Property Taxes; Responsibility of Lessee.**

(a) As of the Commencement Date of this Lease, the Leased Premises is exempt from real estate taxes pursuant to Neb. Rev. Stat. § 77-201, et seq., or from a payment in lieu of real estate taxes. However, it is agreed that if the Leased Premises become subject to real estate tax or subject to a payment in lieu of tax, then Lessee shall pay the said tax or payment in lieu of tax, in addition to any rental fees specified in this Lease. Lessee shall not be responsible for the payment of any real estate taxes or payments in lieu of taxes attributable to a period both prior to the Commencement Date and after termination or expiration of this Lease, regardless of when accrued and payable.

(b) Lessee agrees to pay any taxes or assessments that may be lawfully levied against Lessee's personal property and operations, or Lessee's use of the Leased Premises, or for any improvements placed thereon, or as the result of Lessee's occupancy of the Leased Premises.

16. **Use of Leased Premises.** Lessee will use the Leased Premises solely for a municipal fire station and such other uses as may be incidental and related thereto.

17. **No Cost to Authority; Development, Maintenance, Repair and Improvement at Lessee's Cost.** This Lease, in every sense, shall be without cost to Authority for the development, maintenance, and improvement of the Leased Premises and Lessee shall, at its sole cost, maintain and repair (including replacements, if necessary or required) the entirety of the Leased Premises, and all improvements and facilities placed thereon, in good order, condition

and repair as may be required by ordinary and reasonable use or fault on the part of the Lessee, its agents, employees, or contractors. By entry hereunder, Lessee accepts the Leased Premises as being in good order, condition and repair and agrees, upon termination of this Lease, to surrender the Leased Premises and appurtenances to Authority in the same condition as received, reasonable use and wear thereof and damage by fire, act of God or the elements excepted.

18. Signage; Plans; ADA Compliance.

(a) On-premises exterior signage is permitted, but shall be installed or erected only after written approval of plans for such signage by the Authority. No off-premises signage is permitted.

(b) Any alterations to the Leased Premises shall comply with the requirements of the Americans with Disabilities Act (ADA) and any comparable state or local requirements, and in the event that Lessee's use or occupancy of the Leased Premises requires any alterations to conform to the ADA or any comparable state or local requirements, or in the event that any employee or customer of Lessee requires accommodations necessitating alterations, then any such alterations shall be at the expense of Lessee.

(c) The Lessee will not install or maintain any lights, antenna, billboards, or advertising signs upon the grounds, or upon the outside of any improvements on the Leased Premises, except such as may be installed by or approved in writing by Authority, which approval shall not be unreasonably withheld. Authority reserves the right to install identifying signs, lights and antenna on the grounds on or on the outside of any improvements on the Leased Premises.

19. **Improvements and Additions.** Except as provided in Section 18 above, no improvement or additions to the Leased Premises shall be made or constructed without submittal of plans to and receipt of approval from the Authority. Lessee shall keep, maintain, and repair the same at its sole cost during the term of this Lease.

20. **Insurance Provided by Lessee.**

(a) **Real Property Insurance.** During the Lease Term, Lessee, at its own cost and expense, shall self-insure or keep the structure and improvements insured against all risks in an amount equal to the replacement cost thereof. Replacement costs shall be based upon the "As-Built" plans in the possession of the Authority. Such insurance shall name both the Lessee and the Authority as named insureds as their interests may appear. The Lessee shall at all times provide and keep on file with the Authority a copy of the then current policy of insurance insuring the structure and improvements as required by this section. Such insurance policy shall contain a provision to notify the Authority in writing thirty (30) calendar days prior to any cancellation, non-renewal, or any reduction in coverage.

(b) **Personal Property Insurance.** Lessee shall self-insure or insure, at its own cost and expense, all of its personal property located on or at the Leased Premises.

(c) **Liability Coverage.** Lessee agrees to self-insure or obtain liability insurance in the amount of not less than Five Million Dollars (\$5,000,000.00). Such insurance may be provided through commercial general liability coverage of not less than One Million Dollars (\$1,000,000.00) with the remaining amount of coverage being provided through umbrella or excess insurance coverage. The Authority shall be named as an additional insured on all policies of liability insurance required under this section.

Such insurance policy shall contain a provision to notify the Authority in writing thirty (30) calendar days prior to any cancellation, nonrenewal, or any reduction of coverage.

(d) All insurance coverage shall be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's rating of no less than A:VII, unless specific approval has otherwise been granted by the Authority.

(e) Notwithstanding that Lessee is obliged to obtain the insurance required above, the Lessee does not waive such governmental immunity as remains available to it under the Political Subdivisions Tort Claims Act, and such insurance may include an exclusion for the exemptions listed in Neb. Rev. Stat. § 13-910 (2017 Supp.).

(f) Waiver of Subrogation. Neither Authority nor Lessee shall be liable to the other for any business interruption or for any loss or damage to Lessee's personal property or to the Leased Premises whether or not caused by the fault or negligence of Authority or Lessee or their respective agents, employees, sublessees, licensees or assignees, but such waiver of liability shall only be applicable to the extent that such loss or damage to personal property or to the Leased Premises is covered by insurance maintained or required to be maintained by Authority or Lessee hereunder and to the extent that recovery is made of proceeds thereunder, for the full loss or damage incurred by the Authority or Lessee and regardless of whether such insurance protects only Authority or Lessee or both. Nothing herein shall be construed to impose any other or greater liability upon either of the parties to this Lease than would have existed in the absence of this subsection.

21. Destruction or Damage to Building; Condemnation; Cancellation of Lease.

If Building 2520 is destroyed, damaged or taken by fire or the elements or other casualty, or by condemnation, and the destruction or taking is such that, in the exercise of reasonable effort, it cannot be repaired or replaced by Lessee within one hundred twenty (120) calendar days or, if it is such as to exceed fifty percent (50%) of the value of Building 2520, Lessee may cancel this Lease by written notice mailed to the Authority (30) or more calendar days before the effective date of cancellation and at any time within sixty (60) calendar days after the damage or destruction. If Building 2520 is totally destroyed or taken, Lessee or Authority may cancel this Lease by written notice mailed to the other party within thirty (30) calendar days of the destruction or taking.

In the event of cancellation, it is agreed that any available insurance proceeds shall be allocated between and paid to the Authority and the Lessee in order that, following the disbursement of the insurance proceeds, each has an amount of the insurance proceeds bearing the same proportion to the aggregate insurance proceeds as its respective interest in the improvements bear to the aggregate value of the improvements immediately prior to the casualty giving rise to cancellation of the Lease. The Authority and the Lessee shall attempt to fairly allocate the insurance proceeds between the Authority and the Lessee as their interests may appear. In determining the value of the Lessee's interest in the improvements, the parties shall take into account the present value of the Lessee's leasehold estate for the remainder of the term, subject to all of the terms and conditions of the Lease. In determining the value of the Authority's interest in the improvements, the parties shall take into account the present value of (a) the right to receive rent, additional rent, and other charges and payments required to be paid under this Lease for the balance of the term; and (b) the projected residual value of the

improvements as of the originally scheduled expiration of the term. The Lessee, shall, notwithstanding any other provision of this Lease to the contrary, be responsible for clearing and restoring the Leased Premises as required by Section 37 within the time specified in that section. If this Lease is not canceled as provided, Lessee shall, to the extent of available insurance proceeds, diligently repair, rebuild or restore the improvements as nearly as possible to the conditions existing just prior to the destruction or damage. Lessee's rental during the period from the date of fire or other casualty or taking to the date of complete restoration shall be abated, either in whole or pro rata in part, according to the percentage of interference with Lessee's use of the Leased Premises.

22. Indemnification. Lessee shall defend, indemnify and hold Authority and its agents, officers and employees harmless from and against any and all claims, suits, demands, actions, liabilities, losses, damages, judgments or fines arising by reason of injury or death of any person, or damage to any property, including all reasonable costs for investigation and defense thereof (including, but not limited to, attorney fees, court costs, investigator fees, and expert fees) of any nature whatsoever arising out of Lessee's activities on Authority's property, or in its use or occupancy of the Leased Premises, regardless of where the injury, death or damage may occur, except to the extent such injury, death or damage is caused by the negligent act or omission or willful misconduct of Authority. Authority shall give Lessee reasonable notice of, and an opportunity to defend against, any such claims or actions. Notwithstanding the above indemnification, Lessee shall give Authority reasonable notice of any matter covered herein and shall forward to Authority a copy of every demand, notice, summons or other process received in any claim or legal proceeding covered hereby.

23. **Utilities.** Authority shall not be required to provide or pay for any utility services to the Leased Premises. Lessee shall pay for all water, gas, heat, light, power and telephone service supplied to the Leased Premises, including standard metering devices for the measurement of such services and shall indemnify and hold harmless the Authority against any and all liability on account thereof.

In the event it shall become necessary, as a condition of service, to make changes upon the Leased Premises, or within the building covered by this Lease, of any wiring, plumbing or similar installations, Lessee will make such changes and installations, at its expense, as directed and required by the utility organizations. It is further agreed that Authority shall have the right, without cost to Lessee, to install and maintain in, on, or across the Leased Premises, sewer, water, gas, electric, steam and telephone lines, or other installations necessary to the operation of the Airport or to service required by other tenants of the Authority; provided, however, that Authority shall carry out such work and locate any above-ground structures in a manner so as not to unreasonably interfere with Lessee's use of the Leased Premises.

24. **Storage; Removal of Garbage; Maintenance.** Lessee shall maintain the Leased Premises in a reasonably neat and clean condition. Lessee agrees that all storage of equipment, materials or supplies will be maintained within the building (temporary storage for loading or unloading excepted), and Lessee will cause to be removed, at its own expense, all junk, waste, garbage and rubbish and perform necessary mowing and snow removal and agrees not to deposit the same on any part of the Airport except, Lessee may deposit the same temporarily on the Leased Premises in connection with collection for removal. Lessee shall perform necessary mowing and landscape maintenance, and snow removal at its own cost and expense.

25. **Aerial Approaches; Protection.** Authority reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on the Airport which, in the opinion of Authority, would limit the usefulness of the Airport or constitute a hazard to aircraft.

26. **No Adverse Effect on Airport.** It is understood and agreed that the rights granted by this Lease will not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance or development of the Airport.

27. **Rights Reserved; Noise and Airspace.** There is hereby reserved to Authority, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the Leased Premises herein conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operating on or about the Airport.

28. **Assignment and Subletting.** Lessee shall not assign this Lease, or any interest therein, and shall not sublet the Leased Premises in whole or in part without the prior written approval of the Authority. Any such assignment or subletting without such written approval of the Authority shall be void and shall, at the option of Authority, terminate this Lease.

29. **Authority; Access to Leased Premises.** Authority shall have free access to the Leased Premises at all reasonable times for the purposes of examining or inspecting the conditions thereof relevant to any right or power reserved by Authority pursuant to the terms of this Lease.

30. Termination by Authority.

Lessee agrees that:

(a) If Lessee fails or refuses to pay the rent reserved hereunder after the same becomes due and payable as per the terms of this Lease; or

(b) If Lessee defaults in the performance of any of the other terms, conditions, or covenants contained in this Lease, and if such failure, refusal, or default continues for thirty (30) calendar days after written notice thereof is given to Lessee by Authority, then the Authority may, at the option of Authority, terminate this Lease to the same extent as if the term hereof had expired by passage of time and recover unpaid rent, if any, or declare the remaining unpaid rent for the unexpired portion of the term immediately due and payable by Lessee and recover all unpaid rent from Lessee; provided, however, if any alleged failure, refusal, or default cannot be cured within such thirty (30) day time period, no default shall be deemed to have occurred provided Lessee is diligently proceeding to cure any such alleged default. Authority may, in the event of such failure, refusal, or default, exercise all remedies herein provided for a breach by Lessee, as well as any and all remedies provided by law or in equity. It is further agreed that upon said breach and after notice as provided above, Authority or its agents may, at the option of the Authority, reenter and repossess the Leased Premises and remove all of Lessee's property therefrom.

31. Subordination. This Lease shall become subordinate to the provisions of any existing or future agreement between the Authority and the United States of America or an agency thereof relative to the operation, development, or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

Nothing in this section shall be construed as a waiver of any rights the Lessee may otherwise have in the Leased Premises.

32. **Addendum; FAA Funding.** Lessee agrees that it will, by Lease Addendum, agree to such additional provisions as may be required by the FAA as a condition of granting to Authority funds for Airport improvement projects or as FAA or Authority deem necessary for the operation, safety and security of the Airport.

33. **Compliance with Laws.** Lessee shall, in the use of the Leased Premises, comply with all applicable requirements of all municipal, state and Federal authorities now in force, or which may hereafter be in force, and will observe all applicable municipal ordinances, state and Federal statutes now in force, or hereafter to be in force, and Lessee and its tenants, employees, agents and servants shall obey such reasonable rules and regulations as may from time to time be promulgated by Authority, or its authorized agents in charge of the Airport, to insure the safe or orderly conduct of operations of the Airport and traffic to, from, and upon the Leased Premises.

34. **Hazardous Substance.** Lessee shall not cause or permit any hazardous substance or material to be brought upon, kept or used in or about the Leased Premises by Lessee, its agents, employees, contractors or invitees, except for such use as is in compliance with all laws, ordinances and regulations. Lessee shall defend, indemnify, and hold harmless Authority from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses (including, without limitation, attorneys' and consultants' fees, court costs, and litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of Lessee's actions or use of the Leased Premises during occupancy that cause or result in:

(a) The presence, disposal, release or threatened release of any hazardous substance or material that is on, from, or effects soil, water, vegetation, buildings, personal property, persons, animals, or otherwise;

(b) Any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such hazardous substance or material;

(c) Any lawsuit brought or threatened, settlement reached, or government order relating to such hazardous substance or materials; or

(d) Any violation of any laws applicable thereto.

The provisions of this Lease shall be in addition to any other obligations and liabilities Lessee may have to Authority at law or in equity and shall survive the transactions contemplated herein and shall survive the termination of this Lease.

As used herein, the term "hazardous substance or material" means:

(a) Any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder;

(b) Any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder;

(c) Any glycol, oil, petroleum products, and their byproducts; and

(d) Any material or substance which is or becomes regulated by any federal, state, or local governmental authority.

35. Compliance with Regulations; Nondiscrimination.

(a) Lessee shall comply with all regulations promulgated by the Federal Aviation Administration, Environmental Protection Agency, Nebraska Department of Environmental Quality, Nebraska Department of Health, the Lincoln-Lancaster County Department of Health and any other agency of municipal, state or Federal government which regulates Lessee's use of the Leased Premises.

(b) Lessee for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Lease for a purpose for which a Department of Transportation (DOT) program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the DOT, and as said regulations may be amended.

(c) Lessee for itself, its successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee shall use the Leased

Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the DOT, and as said regulations may be amended.

(d) The tenant/concessionaire/lessee and its transferee agree to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program.

In cases where Federal assistance provides, or is in the form of personal property; real property or interest therein; structures or improvements thereon, this provision obligates the party or any transferee for the longer of the following periods:

- (a) The period during which the property issued by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- (b) The period during which the airport sponsor or any transferee retains ownership or possession of the property.

36. Notices. Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by facsimile, (d) by electronic notification (e-mail), or (e) by a commercial

overnight courier that guarantees next day delivery and provides a receipt, and such notices shall be addressed as follows:

If to Authority:	Lincoln Airport Authority P.O. Box 80407 Lincoln, NE 68407 Attention: Executive Director
(If by Facsimile)	Fax: (402) 458-2490
(If by E-Mail)	administration@lincolnairport.com
If to Lessee:	City of Lincoln <u>1801 Q St.</u> <u>Lincoln NE 68508</u> Attention: <u>Chief Michael Despain</u>
(If by Facsimile)	Fax: (402) 441-7098
(If by E-Mail)	mdespain@lincoln.ne.gov

or to such other address, facsimile number, or e-mail address as either party may from time to time specify in writing to the other party. Any notice shall be effective only upon delivery, which for any notice given by facsimile shall mean notice that has been received by the party to whom it is sent as evidenced by confirmation slip, and which for any electronic notification shall mean upon transmittal by internet.

A tenant information sheet shall be provided to the Authority, a copy of which form is attached hereto and marked as Exhibit "C." The tenant information sheet shall be annually updated by Lessee.

37. Surrender; Restoration of the Premises.

(a) On the last day of the term of this Lease or any extension thereof, or on the earlier termination of this Lease, the Lessee shall peaceably surrender the Leased Premises in good condition and repair, reasonable wear and tear excepted, consistent with the Lessee's duty to make repairs as provided in this Lease. Lessee shall, at its expense, remove all of its personal property and equipment from the Leased Premises on or prior

to the last day of the term of this Lease or any extension thereof. Any personal property or equipment not removed shall be deemed abandoned and become the property of the Authority as sole owner.

(b) Within thirty (30) calendar days after the last day of the term of this Lease or any extension thereof, or on the earlier termination of this Lease, Authority shall notify Lessee, in writing, as to whether it will assume ownership and control of the fire station structure and any and all other improvements upon the Leased Premises. In the event that Authority notifies Lessee that it intends to assume ownership and control thereof, Lessee shall, within thirty (30) calendar days thereafter, tender to the Authority a Quitclaim Deed conveying any right, title or interest that the Lessee may have in the fire station structure and any and all other improvements, and the structure and improvements shall thereafter shall be under the ownership and control of the Authority. Lessee shall provide any and all keys, security codes, or other building information and material (as-built plans, manuals, repair records) in its possession relating to the structure and improvements to the Authority.

(c) In the event that the Authority notifies Lessee that it does not intend to accept ownership of the structure and improvements, then and in that event, Lessee shall, within six (6) months after the last day of the term of this Lease or any extension thereof, or on the earlier termination or cancellation of this Lease, at its own cost and expense, remove the fire station structure (Building 2520) and any and all other improvements, secure and cap all utilities, remove all trash, debris and rubble, and return the site up to the preexisting grade with clean fill, and seed or sod the premises as necessary to restore the Leased Premises, as nearly as practicable, to the condition prior to commencement of

the lease term hereunder. If Lessee fails to perform such restoration work in a manner satisfactory to Authority, Authority may proceed to cause the work to be done and charge the cost of such work to Lessee.

38. Holding Over. The failure of Lessee to surrender the Leased Premises on the date provided herein for the termination of this Lease term, and the subsequent holding over by Lessee, with or without the consent of Authority, shall result in the creation of a tenancy from month-to-month. This holding over shall not result in a renewal or extension of this Lease. All other terms and conditions of this Lease shall remain in full force and effect during any month-to-month tenancy hereunder, except rental rate, which may be increased by Authority after notice to Lessee.

39. Time. In the performance of actions contemplated under this Lease, time is of the essence.

40. Amendment. No amendment of this Lease shall be valid unless it is in writing and is signed by the parties or their duly authorized representatives.

41. Nonwaiver. Failure of the Authority to insist upon the strict performance of the terms, agreements, or conditions contained herein, or any of them, shall not constitute or be construed as a waiver or relinquishment of the Authority's right to enforce any such term, agreement, or condition, but the same shall continue in full force and effect.

42. Estoppel Certificate. Lessee shall, upon ten (10) calendar days' prior written request of Authority, execute, acknowledge, and deliver to Authority or its designee, a written statement stating, to the reasonable knowledge of Lessee as of the date made:

- (a) The date this Lease was executed;

(b) The Commencement Date, the Rent Commencement Date, and the Expiration Date;

(c) The amount of Base Monthly Rent and the date to which Base Monthly Rent has been paid;

(d) That this Lease is in full force and effect, that neither Authority nor Lessee is in default under the Lease, and the Lease has not been assigned, modified, supplemented, or amended in any way (or specifying the date and terms of any agreement so affecting this Lease);

(e) That this Lease represents the entire agreement between the parties as to this lease transaction (or identifying those other documents that, together with this Lease, form the entire agreement between the parties as to this lease transaction);

(f) That all conditions under this Lease to be performed by Authority have been satisfied (or specifying those conditions that Authority has not satisfied);

(g) That all required contributions by Authority to Lessee on account of Lessee's improvements have been received (or specifying those required contributions which Authority has not made);

(h) That as of the date of said statement there are no existing defenses or offsets that Lessee has against the enforcement of this Lease by Authority except as set out by Lessee;

(i) That no Base Monthly Rent has been paid for more than one (1) month in advance except as set out by Lessee;

(j) That no security has been deposited with Authority (or the amount of such deposit, if any); and

(k) Any other matter relating to the Lease that Authority may request. Any such statement may be relied upon by Authority and its designees.

43. **Successors and Assigns.** This Lease shall be binding on and shall inure to the benefit of the parties to this Lease and to their respective successors and permitted assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

ATTEST:

Jackany James
Secretary

AIRPORT AUTHORITY OF THE CITY
OF LINCOLN, NEBRASKA, Lessor

By:

Paul Nuebel
Chairperson

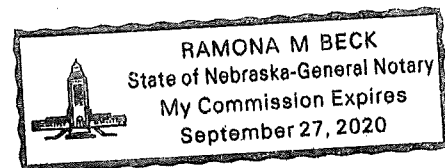
STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me on this 22nd day of February, 2018, by Richard Nuebel, Chairperson of the Airport Authority of the City of Lincoln, Nebraska and on its behalf.

Ramona M. Beck
Notary Public

APPROVED AS TO FORM:

William F. Austin
William F. Austin
Legal Counsel for the
Airport Authority of the
City of Lincoln, Nebraska



ATTEST:

CITY OF LINCOLN, NEBRASKA,
A Municipal Corporation, Lessee

City Clerk

By:

Chris Beutler, Mayor

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me on this ____ day of _____, 20____, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, and on behalf of the City.

Notary Public

This Lease was approved by the City Council of the City of Lincoln through passage of Ordinance No. _____ on the _____ day of _____, 20____.

APPROVED AS TO FORM:

City Attorney

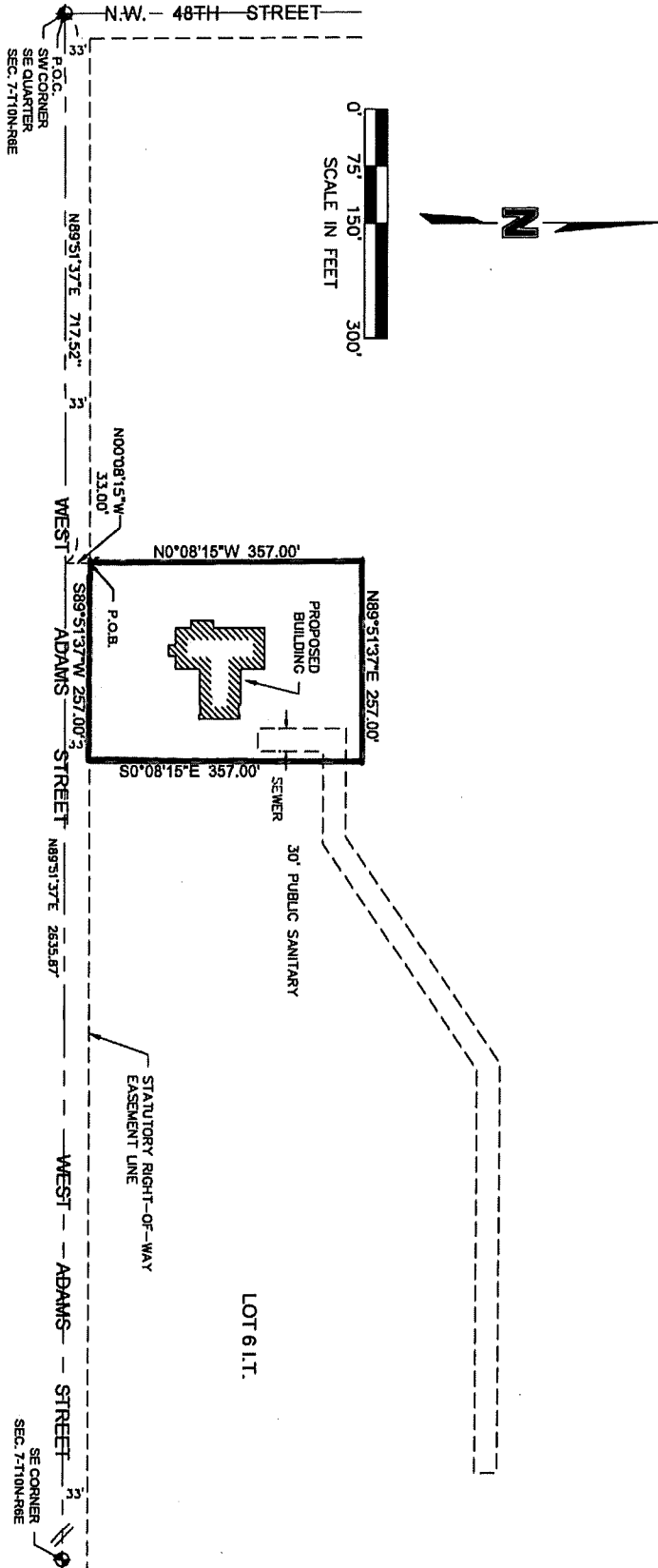
943252

PROJECT NO: 016-0571
DRAWN BY: DAT
DATE: 01/24/18

LEASE AREA

OLSSON
ASSOCIATES
601 P Street, Suite 200
P.O. Box 6808
Tulsa, OK 74106
TEL: 405.474.6371
FAX: 405.474.5100

EXHIBIT
A



LEGAL DESCRIPTION PUBLIC SANITARY SEWER


A TRACT OF LAND COMPOSED OF A PORTION OF LOT 6 I.T., LOCATED IN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 10 NORTH, RANGE 6 EAST OF THE 6TH P.M.; THENCE EASTERLY ON THE SOUTH LINE OF SAID SOUTHEAST QUARTER ON AN ASSUMED BEARING OF N89°51'37"E, A DISTANCE OF 933.65' TO A POINT; THENCE N00°00'00"E, A DISTANCE OF 255.20' TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING N00°00'00"E, A DISTANCE OF 115.72' TO A POINT; THENCE N90°00'00"E, A DISTANCE OF 141.98' TO A POINT; THENCE N55°27'40"E, A DISTANCE OF 360.19' TO A POINT; THENCE S89°53'22"E, A DISTANCE OF 536.42' TO A POINT; THENCE S00°06'38"W, A DISTANCE OF 30.00' TO A POINT; THENCE N89°53'22"W, A DISTANCE OF 527.06' TO A POINT; THENCE S55°27'40"W, A DISTANCE OF 360.16' TO A POINT; THENCE N90°00'00"W, A DISTANCE OF 121.31' TO A POINT; THENCE S00°00'00"E, A DISTANCE OF 85.72' TO A POINT; THENCE N90°00'00"W, A DISTANCE OF 30.00' TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA 33,728.29 SQUARE FEET OR 0.77 ACRES, MORE OR LESS.

Monday, February 5, 2018

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DWC: F:\2016\0501-1000\016-0571\40-Design\Survey\SRVY\LeaseArea\Drawings\016-0571_PublicSan.dwg
DATE: Feb 05, 2018 9:06am
XREFS:
USER: dthomson

PROJECT NO: 016-0571	PUBLIC SANITARY SEWER LEGAL DESCRIPTION		601 P Street, Suite 200 P.O. Box 84808 Lincoln, NE 68508 TEL 402.474.6311 FAX 402.474.6160	EXHIBIT
DRAWN BY: MRJ				B
DATE: Feb. 05, 2018				